

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 301 be amended to read as follows:

- 1       Page 1, line 3, after "(a)" insert "**This section is effective beginning**  
2       **October 1, 2009.**  
3       **(b)".**  
4       Page 1, line 3, delete "(b)," and insert "**(c),"**  
5       Page 1, line 12, delete "(b)" and insert "**(c)".**  
6       Page 1, line 16, delete "(c)" and insert "**(d)".**  
7       Page 1, after line 18, begin a new paragraph and insert:  
8       "SECTION 2. IC 12-15-2-23.5 IS ADDED TO THE INDIANA  
9       CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10      [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. (a) This section is effective**  
11      **beginning October 1, 2009.**  
12      **(b) The office may not implement the optional provision allowed**  
13      **in 42 U.S.C 1396p(c)(1)(A) to apply penalties specified in 42 U.S.C.**  
14      **1396p(c)(1)(A) to a noninstitutionalized individual or the spouse of**  
15      **the noninstitutionalized individual for the disposal of assets for less**  
16      **than fair market value.**  
17      **(c) In implementing the federal Deficit Reduction Act of 2005,**  
18      **the office shall comply with the following:**  
19          **(1) A rule adopted may not apply to the transfer of property**  
20          **or another transaction that occurred before the passage of the**  
21          **rule.**  
22          **(2) The office may not require an individual to return all**  
23          **assets in order to reduce a penalty period for the transfer of**  
24          **assets. The office shall allow a penalty period to be**  
25          **proportionally reduced for a partial return of assets.**  
26      SECTION 3. IC 30-4-3-25.5 IS ADDED TO THE INDIANA CODE  
27      AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
28      1, 2009]: **Sec. 25.5. (a) This section applies beginning October 1,**  
29      **2009.**  
30      **(b) Except as provided in subsection (d), when a trust created to**  
31      **comply with 42 U.S.C. 1396p(d)(4)(A) is terminated, the trustee**

1       **shall not distribute trust property to any person entitled to**  
2       **payment from the trust until the office of Medicaid policy and**  
3       **planning has been fully reimbursed for assistance rendered to the**  
4       **person for whom the trust was created.**

5       **(c) The primary purpose of a trust described in subsection (b)**  
6       **is to ensure that the state is repaid Medicaid benefits provided in**  
7       **return for excepting the trust from the general requirements of 42**  
8       **U.S.C. 1396(d).**

9       **(d) A trustee may pay federal and state taxes from the trust**  
10       **before reimbursing the office of Medicaid policy and planning."**

11       Renumber all SECTIONS consecutively.

(Reference is to SB 301 as printed February 13, 2009.)

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Senator MILLER